

**STATE OF LOUISIANA
DEPARTMENT OF CIVIL SERVICE
BATON ROUGE, LA.**

June 15, 2009

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**STATE PERSONNEL MANUAL
TRANSMITTAL SHEET
NO. 455**

To: HEADS OF STATE AGENCIES AND PERSONNEL OFFICERS

Subject: Amendments within Chapter 17 of the Civil Service Rules

Issue Date: June 15, 2009

At its regular business meeting on June 3, 2009, the Civil Service Commission adopted changes within Chapter 17 of the Civil Service Rules, with an effective date of June 3, 2009. Explanations for these changes appear in General Circular No. 1761 and General Circular No. 1767.

If you have any questions, please call your Assistance Coordinator at 225-342-8274.

Please make the following changes in your Civil Service Rules:

REMOVE
*Remove Entire Chapter 17
(pages 20.105 thru 20.116.5)*

| <u>INSERT</u> | |
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| Insert pages attached to this Transmittal | |
| <u>Page</u> | <u>T/S</u> |
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Sincerely,

s/Shannon S. Templet
Director

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CHAPTER 17**Layoff Avoidance Measures, Layoffs, and Post Layoff****Section 1 - General****17.1 Uniform Application**

These rules shall apply uniformly to all employees in the affected organizational unit, as defined by Rule 1.21.1.

17.2 A written plan for a layoff avoidance measure shall be submitted to the Director for approval in accordance with these rules prior to the effective date of implementation of the plan. A written plan for a layoff shall be submitted to the Director at least two calendar weeks prior to the effective date of the layoff. The appointing authority shall certify that the agency does not have sufficient funds to continue current operations without implementation of a layoff or layoff avoidance measure. The Director may:

- (a) approve the plan;
- (b) disapprove the plan; or
- (c) refer the plan directly to the Commission for consideration at its next regularly-scheduled meeting.

17.3 For rational business reasons, the appointing authority may request exceptions to these rules. Justification for exceptions must be in writing as a part of the layoff or layoff avoidance plan.

- (a) The Director or the Commission may approve exceptions to Layoff Avoidance Measures.
- (b) The Commission may approve exceptions to the Layoff Rules for rational business reasons. The Director may grant interim approval to exceptions to the Layoff Rules subject to ratification by the Commission at its next regularly-scheduled meeting.

17.4 Permanent employees who are negatively impacted by the application of these rules may have the right to file an appeal to the Civil Service Commission in accordance with Chapter 13.

Section 2 - Layoff Avoidance Measures

17.5 Required Notice to Employees

- (a) The appointing authority shall, as soon as it is determined that a layoff avoidance measure is necessary, make a reasonable attempt to notify all employees who could be affected.
- (b) Once a layoff avoidance plan is approved by the Director or Commission, it shall be made generally available to the employees who are affected.

17.6 Merit Increases

When an appointing authority determines that it is necessary not to grant or to reduce merit increases in order to avoid or reduce layoffs, his request is subject to the following:

- (a) The request shall include the reasons for this action, the names and jobs of those employees to be excluded, if any, and reasons for their exclusion, the proposed effective dates and periods of time involved, the organizational unit, and the geographic area(s) affected.
- (b) The duration of this measure shall not exceed one period of 12 consecutive months.
- (c) Employees whose merit increases are affected by this measure shall retain their eligibility for such increases for a three-year period. Such eligibility shall be lost if during that period the employee receives an official rating of “poor” or “needs improvement.”

17.7 Reduction in Work Hours

When an appointing authority determines it is necessary to reduce the work hours of employees in order to avoid or reduce layoffs, his request is subject to the following:

- (a) The request shall include the reasons for the reduction, the names and job titles of any employees to be excluded and reasons for the exclusion, the number of work hours reduced for each employee, the proposed effective dates and periods of time involved, the organizational unit, and the geographic area(s) affected.
- (b) Such reductions shall not exceed one period of 12 consecutive months.
- (c) The number of work hours reduced for an employee shall not exceed 16 hours per biweekly payroll period.
- (d) If an employee is required to work hours in excess of his assigned reduced schedule, s/he shall be granted compensatory time at the straight rate for the difference in hours between the previous schedule and the reduced schedule. Any additional overtime hours worked by non-exempt employees shall be compensated in accordance with the Fair Labor Standards Act and Chapter 21 of these rules. Any additional overtime hours worked by exempt employees may be compensated in accordance with Rule 21.9.
- (e) Employees who are on a reduced work schedule shall earn and be granted leave in accordance with Chapter 11 of these rules.

17.8 Furlough Without Pay

When an appointing authority determines that it is necessary to furlough employees without pay to avoid or reduce layoffs, his request is subject to the following:

- (a) The request shall include the reasons for the furlough, the names and jobs of those employees to be excluded, if any, and reasons for their exclusion, the total work hours or days for each employee, the dates and period of time involved, the organizational unit, and the geographic area(s) affected. The appointing authority shall also specify if employees will be recalled from furlough at the same time. If employees will be recalled at different times, the recall schedule must be specified and justified.
- (b) An employee shall not be furloughed for more than a total of 240 work hours in any consecutive 12-month period without approval of the Commission.
- (c) With the approval of the Commission, an employee may be furloughed up to a total of 450 work hours in a consecutive 12-month period.
- (d) When the Commission or Director determines that extraordinary circumstances exist, they may approve an extension of furlough beyond 450 hours. If any employees are recalled during this extended furlough period, the employee with the most state service for a given job title shall be recalled first, unless the position requires specific licensure or certification, or an exception has been granted under Rule 17.3.

17.9 To avoid or reduce layoffs, an appointing authority may request authority to offer employees who are eligible for regular retirement, an incentive to retire in the form of a one-time, lump-sum payment. The request shall be subject to the following:

- (a) No employee may receive a payment that exceeds 50% of the savings realized by the agency in the fiscal year as a result of that employee's retirement; and
- (b) No such payment shall be made prior to the effective date of the employee's separation.

17.10 Required Annual Leave During Closures

This measure does not require submission of a plan or prior approval of the Director or Commission. A department or agency may require employees to use up to a maximum of ten days of annual leave per calendar year, when the efficiency of operations dictate a temporary closure. Employees who have less than 240 hours of annual leave may be required to take annual leave under this provision. Employees who have exhausted all annual leave shall be placed on leave without pay, for no more than ten days per calendar year.

Section 3 - Layoffs

17.11 Layoff of Probational Employees Only

- (a) Layoffs that involve only probational employees do not require the approval of the Director; however, the appointing authority shall provide written notice of such layoffs to the Director prior to the effective date.
- (b) Affected probational employees shall be given notice of their layoff prior to the effective date of the layoff.

17.12 Layoffs Involving Permanent Employees

This rule applies to layoffs of permanent employees and layoff plans that affect a combination of permanent and probational employees.

- (a) As soon as it is determined that a layoff will be necessary, the appointing authority shall make a reasonable attempt to notify all employees who may be affected.
- (b) A written plan shall be submitted to the Director for consideration at least two calendar weeks prior to the effective date of the layoff.
- (c) Employees who may be laid off or moved to a vacant position as the result of a layoff shall be notified in writing. The Director or Commission shall not approve any plan until at least five calendar days after notification of the last affected employee.
- (d) Once a layoff plan is approved by the Director or Commission, it shall be made available to the employees who may be affected.
- (e) Each employee who is eligible to move to a vacant position created by the layoff process shall be notified of his/her offer. There shall be at least five calendar days between the last such notice and the effective date of layoff.

17.13 Effect of Allocation Changes on Layoff

A layoff shall not be affected by any changes in allocations for affected positions after the layoff plan is received at Civil Service, regardless of the effective date of the allocation.

17.14 Requirements for the Written Layoff Plan

The layoff plan shall include, but not necessarily be limited to, the following items:

1. Affected organizational unit
2. Reasons why the layoff is being proposed
3. Any budgetary measures which may have been taken to avoid a layoff
4. Proposed effective date of the layoff.
5. Definition of commuting area used for this layoff (refer to Rule 1.9.01)
6. How pay on relocation to lower jobs will be set, if applicable. (refer to Rule 17.16)
7. For the abolished positions, list:
 - a. parishes where the positions are domiciled;
 - b. affected job titles;
 - c. career field for each affected job title; and
 - d. number of positions for each affected job title.
8. If any affected employees are in Career Field 9999, propose an appropriate expansion of their career field, with justification. If no expansion is proposed, explain why.
9. List the Parish, Career Field, Name, Job Title, and Adjusted Service Date for employees who are expected to be laid off.
10. List the Parish, Career Field, Name, Job Title, and Adjusted Service Date for employees who will be moved to vacancies created as a result of the layoff, and the job title planned to be offered to each employee.
11. Exemptions made, if any, under Rule 17.15(e) and reasons for these exemptions.
12. Exceptions requested, if any, under Rule 17.3 and reasons for these exceptions.
13. Names and pay of employees occupying unclassified positions authorized under Rule 4.1(d)1 or 4.1(d)2 in the affected organizational unit, and how these positions will be affected by the layoff.
14. Contracts either currently in effect or anticipated that may be causative of or related to the layoff.

17.15 Determining the Employees Who Will Be Laid Off or Relocated

- (a) Based on the budget and organizational priorities, the appointing authority will determine which positions are to be abolished.
- (b) Employees who received a “poor” or “needs improvement” on their last official Performance Planning and Review rating shall be laid off first. For purposes of layoff determination, the last official rating shall refer to a rating received no fewer than 60 days prior to the effective date of the layoff.
- (c) A number of employees within the career fields, organizational unit and commuting area of positions to be abolished, and sufficient to fulfill budgetary and organizational requirements, shall be laid off on the basis of the least years of service as determined by adjusted service date.

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- (d) Employees in positions targeted for abolishment shall move into vacant positions in accordance with Rule 17.18.
- (e) The agency may exempt from layoff a number of employees, the total of which shall not exceed 20% of the total number of employees laid off and relocated. These exemptions must be made for rational business reasons and may include employees who have exceptional performance, or who possess particular qualifications or competencies needed to effectively fulfill the requirements of the position. Exemptions and their reasons shall be stated in the layoff plan.
- (f) Employees with veteran's preference as referred to in Rule 22.7 and whose performance ratings and length of service are at least equal to those of other affected employees shall be given preference.

17.16 Pay Upon Relocation

Pay may be reduced upon movement to lower jobs. Pay reductions shall be uniform in their percentage for all affected employees. If the uniform pay reduction results in an employee's rate of pay falling above the maximum of the pay range, the appointing authority may choose one of the following options for all employees similarly situated:

- 1. The pay of affected employees may be reduced to the range maximum.
- OR
- 2. The pay of affected employees may be set at the red-circle rate. (See Rule 1.33.01)

17.17 Domicile for Relocation Purposes

- (a) The domicile for movement for an employee shall be the parish in which he reports to work.
- (b) Employees whose official domicile is "statewide" shall, for the purpose of relocation offers, be considered domiciled in the parish in which they officially reside.
- (c) Employees who live and work outside of Louisiana shall, for the purpose of relocation offers, be considered domiciled in the parish in which they have an official residence. If they have none, their domicile shall be at their department's central headquarters.
- (d) Agencies may request a different domicile assignment in situations not addressed in the rule through the exception procedure in Rule 17.3.

17.18 Relocation Provisions

- (a) Rights to relocate to a vacant position created as the result of a layoff shall be granted only to permanent employees whose most recent official performance rating is "meets requirements" or higher.

- (b) A permanent employee, who accepted a new probational appointment without a break in service for a trial period may be, at the option of the appointing authority, considered as having permanent status for the purpose of layoff.
- (c) For purposes of this rule, an employee with a rating of "unrated" shall be considered as having a rating of "meets requirements" for that rating period.
- (d) Employees in positions that are targeted for abolishment shall move into vacant positions or positions that become vacant as the result of the layoff within the affected organizational unit.
- (e) An employee shall not have the right to move:
 1. into a job with a higher pay range
 2. into a job for which he does not meet the Civil Service qualification requirements
 3. outside of his organizational unit (as defined in Rule 1.21.1 and the approved Layoff Plan) except under the provisions of part (k) of this section
 4. outside of his career field (as defined in Rule 1.5.2), unless the career field has been expanded in the Layoff Plan or under the provisions of part (f) or part (k) of this section
 5. outside of his commuting area (defined in rule 1.9.01) except under the provisions of part (k) of this section.
- (f) The Director of Civil Service may, on his own initiative, expand career fields.
- (g) Employees who move into another position shall retain permanent status.
- (h) If the position offered is in a Career Progression Group, it shall be offered at the highest level for which the employee meets the Civil Service qualification requirements, as long as it is not higher than his current job.
- (i) Vacancies to be created as the result of the layoff of the least senior employees shall be offered first to employees who occupy targeted positions based on skills, experience, performance, seniority and the needs of the agency as determined by the appointing authority. These needs shall be determined based on documented, rational business reasons.
- (j) If the employee declines an offer within his organizational unit, career field, and commuting area, he shall be laid off and shall not be eligible for the Department Preferred Reemployment List.
- (k) The appointing authority may offer vacant positions outside of the organizational unit, career field or commuting area to an affected employee after the requirements of 17.18(a)-(j) have been met. If the employee declines such an offer, he shall be laid off and shall remain eligible for the Department Preferred Reemployment List.

- (l) The agency may end job and /or restricted appointments of employees who occupy temporary positions and may use the position(s) to rehire, without a break in service, a permanent employee who was laid off. The rehired employee may be rehired in job or restricted appointment status and shall be placed on the Department Preferred Reemployment List for permanent appointments.

17.19 Responsibilities of Employees Affected in a Layoff

The responsibilities of employees affected in a layoff are listed below. This rule applies to active employees and includes employees who are on leave for any reason, on detail to special duty and on temporary interdepartmental assignment.

- (a) The employee shall read or otherwise make himself aware of agency-distributed information concerning the layoff.
- (b) The employee shall supply all information required by the agency to determine adjusted state service date in the format and by the deadline set by the agency. Failure to do so will result in the employee's adjusted service date being set at the date of their most recent hire.
- (c) If the employee is absent from work, he shall provide to the personnel specified by his agency, correct and current information as required by the agency on how he may be reached at all times.
- (d) The employee shall respond to a relocation offer in a manner determined by the agency. Failure to do so shall be considered a declination of the offer.
- (e) For purposes of meeting the job qualifications of the relocation offer, an employee must have a grade from Civil Service only in the instance of an employee moving from a sub-professional level job to a professional level job. The employee must have the grade before the effective date of the layoff to be eligible for that position. The grade need not be active; it may be expired; however, it must be a grade for the test currently in use and must be verifiable.
- (f) Once an employee accepts or declines a relocation offer, the decision is final.

17.20 Freeze on Appointments to Layoff-Affected Jobs

- (a) Beginning the date the Director approves the layoff plan, no appointments shall be made in the affected department to job titles abolished in the layoff or to equivalent or lower jobs in those career fields and commuting areas except that jobs offers made prior to this approval date may be honored. The freeze on appointments shall end upon the establishment of the Department Preferred Reemployment List.
- (b) Exceptions to the freeze that do not require the Director's approval include:

1. reinstatement of an employee as the result of an appeal decision;
2. internal demotion;
3. restoration of a former employee returning from military duty in accordance with Rule 23.15; and
4. restricted appointments, job appointments, details to special duty, and use of temporary staffing service employees.
5. Other exceptions to the freeze may be approved in accordance with Rule 17.3.

17.21 Special Provisions for Veterans in Layoffs

A veteran who has been restored to duty under the provisions of Rule 23.15 and who thereafter is affected by a layoff shall be granted prior service credit for the period of time served as a member of the armed forces of the United States on which the restoration was based.

Section 4 - Post Layoff

17.22 Reporting Requirement Following Layoff

The appointing authority shall report all personnel actions taken relative to the layoff to the Director within 15 calendar days from the effective date of the layoff. The report shall include information for each affected employee as required in the HR Handbook.

17.23 Department Preferred Reemployment List

- (a) The Department Preferred Reemployment List created under this rule is a list of names of permanent employees who have been laid off or moved to a vacancy created as the result of a layoff. Employees on such a list shall be given preferential hiring rights for their department or agency, subject to the exceptions stated in this rule or approved as part of the Layoff Plan under Rule 17.3
- (b) Only employees who have relocation rights according to Rule 17.18, and who have been laid off or moved to a vacancy created as the result of a layoff shall be eligible for this list. Eligibility shall be limited to:
 1. the agency or department where the layoff occurred;
 2. the employee's parish of domicile at the time of layoff and any other parishes he may list for availability; and
 3. the same job title the employee held at the time of the layoff and equivalent or lower-level jobs for which the employee qualifies in his career field. An employee who is moved as the result of a layoff shall be eligible only for jobs down to, but not including, those in the pay range to which he moved.

- (c) Employees not eligible for this list include:
 1. those who moved to a lateral position;
 2. employees who declined a movement offer within their organizational unit, commuting area and career field;
 3. those whose most recent official performance rating at the time of layoff was “needs improvement” or “Poor”;
 4. non-permanent employees; and/or
 5. those who have retired from state service.

- (d) Employees shall be ranked in the order of length of state service they had at the time of the layoff. When a vacancy occurs, the eligible employee with the most state service shall be given the first offer. Those tied shall be considered as having the same ranking. Ties shall be decided by the appointing authority using any non-discriminatory method he chooses.

- (e) An employee’s name will be removed for the applicable list(s) when:
 1. He is offered reemployment from the Department Preferred Reemployment List to a permanent position. His name shall then be removed for that job as well as for all other equivalent or lower jobs, but shall remain on the list for higher jobs for which he is eligible.
 2. He declines or fails to respond to an offer. He shall then be removed for that job, equivalent jobs, and all lower jobs.
 3. He attains permanent classified status in any position in any department. His name shall then be removed from all such lists for equivalent and lower jobs.
 4. He is dismissed or resigns to avoid dismissal after the layoff action. Exceptions may be made for employees who are reinstated.
 5. The Director determines that he is not qualified, is not available, or upon investigation, he is found to be not suitable for appointment to the position.
 6. His name has been on the list for two years from the effective date of the layoff.

- (f) If the job held by the employee prior to the layoff undergoes a change in the minimum qualification requirements or title or pay range (including one that is changed upward) after the layoff, at the request of the employee, he may have his name placed on the list for the newly revised job title and equivalent and lower level jobs in his career field. He shall not be required to meet the new qualifications if sufficient evidence is presented to the Director to show, as determined by the Director that he is returning to a job having essentially the same duties he was performing when affected by the layoff, unless the lacking qualification is one required by law or under a recognized accreditation program.

17.24 Exceptions to Hiring from the List

If there is a Department Preferred Reemployment List, the employee who is first on the list shall be hired first, subject to exceptions approved under Rule 17.3 and/or when the position is filled by:

1. reinstatement;
2. internal demotion; or
3. restoration of an employee returning from military service under Rule 23.15.

17.25 Temporary Appointments From the List

New restricted or job appointments shall be offered to the first person on the list. If the person accepts or declines such a temporary appointment, his name shall remain on the list for permanent appointments.

17.26 Movement of Employees Following Layoff

For rational business reasons, after a layoff, an appointing authority may move an employee from one position to another position for which he qualifies in the same pay grade as long as such movement does not circumvent the Department Preferred Reemployment List.